

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
KENNETH D. THOMPSON,

Plaintiff,

-against-

NCO FINANCIAL SYSTEMS, INC. and
JOHN and JANE DOES 1 – 10,

Defendant(s).
-----X

Civil Action No.: 09-cv-06648

COMPLAINT

DEMAND FOR JURY TRIAL

Plaintiff KENNETH D. THOMPSON ("Plaintiff" and/or "Thompson"), by and through her attorneys, M. Harvey Rephen & Associates, P.C., as and for its Complaint against the Defendant NCO FINANCIAL SYSTEMS, INC. ("NCO") and JOHN and/or JANE DOES 1–10 ("Does") (NCO and Does hereinafter individually and jointly referred to as Defendant(s)"), respectfully sets forth, complains and alleges, upon information and belief, the following:

INTRODUCTION/PRELIMINARY STATEMENT

1. Plaintiff brings this action on his/her own behalf for damages and declaratory and injunctive relief arising from the Defendant's violation(s) of §1692 et seq. of Title 15 of the United States Code, commonly referred to as the Fair Debt Collections Practices Act ("FDCPA"), as well as certain state law claims.

PARTIES

2. Plaintiff is a resident of the State of New York, residing at 1381 Bronx River Avenue, Bronx, New York 10472.

3. Defendant NCO is corporation with a business address at 507 Prudential Road, Horsham, Pennsylvania 19044.

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2. Plaintiff is a resident of the State of New York, residing at 1381 Bronx River Avenue, Bronx, New York 10472.

3. Defendant NCO is corporation with a business address at 507 Prudential Road, Horsham, Pennsylvania 19044.

4. NCO is a "debt collector" as the phrase is defined and used in the FDCPA

JURISDICTION AND VENUE

5. The Court has jurisdiction over this matter pursuant to 28 USC §1331, as well as 15 USC §1692 et seq. and 28 U.S.C. §2201. If applicable, the Court also has pendent jurisdiction over the state law claims in this action pursuant to 28 U.S.C. §1367(a).

6. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2).

FACTUAL ALLEGATIONS

7. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "6" herein with the same force and effect as if the same were set forth at length herein.

8. On information and belief, Defendants, on behalf of a third-party, U.S. Department of Education (sic) ("USDE"), and on a date better known to Defendant, began collecting an alleged consumer debt from the Plaintiff ("Alleged Debt"), the Alleged Debt being borne from a promissory note, the proceeds of which were allegedly used for educational purposes.

9. Sometime in 2004, Defendant began and continued contacting Plaintiff, by phone and written communications, for the express purpose of collecting from Plaintiff monies to repay the Alleged Debt. From that time and thereafter, Plaintiff explained to Defendants that the debtor of the Alleged Debt, though named 'Kenneth L. Thompson' ("Debtor"), was not the Plaintiff, the Plaintiff further stating that not only is his middle name/initial 'Douglas', but he never took out a loan for the Alleged Debt.

10. To further prove that the Plaintiff was not responsible for the Alleged Debt, the Plaintiff, on or about July/August, 2008, forwarded to the Defendants his social security

card and birth certificate ("Proof Documents"), the Proof Documents clearly showing a different social security number and birth dates from the Debtor, the difference being corroborated by the application/loan documentation the Debtor executed for the Alleged Debt.

13. Subsequent to the Defendants' knowledge that the Plaintiff disputed having any responsibility for the Alleged Debt, and subsequent to the Defendants' receipt of the Proof Documents, the Defendants, on July 31, 2008, August 4, 2008, August 7, 2008 and August 25, 2008, continued its campaign to collect the Alleged Debt from the Plaintiff by placing phone calls with the Plaintiff ("Subsequent Communications").

14. With the Subsequent Communications, the Defendant violated 15 USC §1692d, 15 USC §1692g and 15 USC §1692f.

15. As a result of Defendant's abusive, deceptive and unfair debt collection practices, Plaintiff has been damaged.

FIRST CAUSE OF ACTION
(Violations of the FDCPA)

16. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "15" herein with the same force and effect as if the same were set forth at length herein.

17. Defendant's debt collection efforts attempted and/or directed towards the Plaintiff violated various provisions of the FDCPA, including but not limited to 15 USC §1692d, 15 USC §1692g and 15 USC §1692f.

18. As a result of Defendant's violations of the FDCPA, Plaintiff has been damaged and is entitled to damages in accordance with the FDCPA.

DEMAND FOR TRIAL BY JURY

19. Plaintiff KENNETH D. THOMPSON hereby respectfully requests a trial by jury for all claims and issues in its Complaint to which it is or may be entitled to a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff KENNETH D. THOMPSON demands judgment from the Defendants NCO FINANCIAL SYSTEMS, INC. and JOHN and/or JANE DOES 1–10 as follows:

- A. For actual damages provided and pursuant to 15 USC §1692k(a)(1);
- B. For statutory damages provided and pursuant to 15 USC §1692k(2)(A);
- C. For attorneys' fees and costs provided and pursuant to 15 USC §1692k(a)(3);
- D. A declaration that the Defendant's practices violated the FDCPA; and,
- E. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

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Dated: New York, New York
July 21, 2009

Respectfully submitted,

By: 

M. Harvey Rephen, Esq. (MR3384)

M. HARVEY REPHEN & ASSOCIATES, P.C.

708 Third Avenue, 6th Floor

New York, New York 10017

Phone: (212) 796-0930

Facsimile: (866) 832-8600

Attorneys for the Plaintiff KENNETH D. THOMPSON

To: NCO FINANCIAL SYSTEMS, INC.
507 Prudential Road
Horsham, PA 19044
(Via Prescribed Service)

Clerk,
United States District Court, Southern District of New York
(For Filing Purposes)

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EASTERN DISTRICT OF NEW YORK

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New York, New York 10017
Phone: (212) 796-0930
Facsimile: (866) 832-8600*
